

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

_____	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	
v.	)	
	)	
CHOICEPOINT INC., a corporation,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT FOR CIVIL PENALTIES, PERMANENT INJUNCTION,  
AND OTHER EQUITABLE RELIEF**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“FTC” or “Commission”), for its Complaint, alleges that:

1. Plaintiff brings this action under Sections 5(a), 13(b), and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 53(b), and 56(a); and Section 621(a) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681s(a), to secure permanent injunction, consumer redress, disgorgement, and other equitable relief from Defendant for engaging in acts or practices violating Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and the FCRA, 15 U.S.C. §§ 1681-1681x; and to recover monetary civil penalties pursuant to Section 621(a)(2)(A) of the FCRA, 15 U.S.C. § 1681s(a)(2)(A).

## **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 1691c(c).

3. Venue in the United States District Court for the Northern District of Georgia is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391(b)-(c) and 1395(a).

## **DEFENDANT**

4. Defendant ChoicePoint Inc., including for all purposes in this Complaint its subsidiaries and operating companies, (“ChoicePoint” or “Defendant”), is a Georgia corporation with its principal place of business at 1000 Alderman Drive, Alpharetta, Georgia 30005. In connection with the matters alleged herein, ChoicePoint has transacted business in this District.

5. At all times material to this Complaint, certain subsidiaries of ChoicePoint have collected and maintained personal identifying information about individuals, and have furnished that information to others for a fee. Among other lines of business, ChoicePoint sells to its subscribers consumer reports obtained from consumer reporting agencies and public record information obtained from a variety of sources.

6. Certain subsidiaries of ChoicePoint are “consumer reporting agencies” as that term is defined in Section 603(f) of the FCRA, 15 U.S.C. § 1681a(f).

## **COMMERCE**

7. Defendant maintains, and at all times mentioned herein has maintained, a course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

## **DEFENDANT'S COURSE OF CONDUCT**

8. ChoicePoint markets products and services to businesses, governments, and other entities that use the information contained in ChoicePoint's databases for, among other things, identification and credential verification purposes. ChoicePoint's products and services draw upon billions of records collected and maintained by ChoicePoint that contain the personal information of consumers, including names, Social Security numbers, dates of birth, bank and credit card account numbers, and credit histories, much of which is sensitive and not publicly available.

9. ChoicePoint furnishes consumers' personal information, in various combinations and product lines, to businesses through a number of operating units. These operating units include, but are not limited to, ChoicePoint Public Records Group, WorkPlace Solutions, and Insurance Services. ChoicePoint Public Records Group provides public records data, such as bankruptcy and lien information, as well as identity verification products and services. These products contain the personal information of individual consumers, such as name, address, date of birth, and Social Security number. WorkPlace Solutions provides pre-employment and tenant screening products and services, including consumer reports. Insurance Services provides, among other things, products and services to the insurance industry for use in underwriting, including consumer reports.

10. ChoicePoint obtains consumer data from a broad assortment of sources, including, but not limited to, insurance claims data, public records (such as courthouses, recorders of deeds, and criminal dockets), motor vehicle records, and other consumer reporting agencies, including the three nationwide credit reporting agencies. ChoicePoint collects the information without making any contact with the consumers whose information it sells, and consumers cannot remove their information from ChoicePoint's databases.

11. A business obtains data from ChoicePoint by entering into an agreement and becoming a subscriber. In order to become a subscriber, an entity must submit an application that includes certain information and documentation to establish that the applicant is a legitimate business with a lawful purpose for purchasing consumer data. ChoicePoint then processes the application materials before approving or rejecting the account. ChoicePoint has over 50,000 subscribers, including insurance companies, landlords, banks, private investigators, debt collectors, and a variety of other businesses.

12. In February 2005, pursuant to a California state law requirement, ChoicePoint notified approximately 35,000 California consumers that it may have disclosed their personal information to persons who did not have a lawful purpose to obtain the information. Subsequently, ChoicePoint notified approximately 111,000 consumers outside of California that their information may have been compromised. More recently, it notified an additional 17,000 consumers, bringing the total to 163,000. In all cases, the information disclosed by ChoicePoint included unique identifying information that facilitates identity theft, such as dates of birth and Social Security numbers, as well as nearly 10,000 credit reports. At least 800 cases of identity theft arose out of these incidents.

13. The persons who obtained this consumer information submitted applications to ChoicePoint and were approved by the company to be subscribers authorized to purchase ChoicePoint products and services. The applications contained false credentials and other misrepresentations, which ChoicePoint failed to detect because it had not implemented reasonable procedures to verify or authenticate the identities and qualifications of prospective subscribers. Among other things, ChoicePoint failed to: utilize readily available business verification products, such as those that identify commercial mail drops; examine applications

and supporting documentation supplied by prospective new users; compare information supplied by prospective new users to information supplied by other applicants in order to identify suspect representations; conduct site visits; or utilize other reasonable methods to detect discrepancies, illogical information, suspicious patterns, factual anomalies, and other indicia of unreliability.

Examples of these failures include, but are not limited to, the following:

- a. ChoicePoint accepted as verification of certain application information (e.g., business address) documents that otherwise called into question the authenticity of the applicant's business or the reliability of information supplied by the applicant, such as a utility statement showing a delinquent account or a telephone statement showing billing at a residential, rather than a business, rate;
- b. ChoicePoint accepted for verification purposes documentation that included facially contradictory information, such as different business addresses on federal tax identification documents and utility statements, without conducting further inquiry to resolve the contradiction;
- c. ChoicePoint accepted other forms of facially contradictory or illogical application information, such as articles of incorporation that reflected that the business was suspended or inactive, and tax registration materials that showed that the business' registration was cancelled a few days prior to the date the application was submitted to ChoicePoint, without conducting further inquiry to resolve apparent anomalies;
- d. ChoicePoint accepted information inconsistent with the stated type of business of an applicant, such as an apartment number or commercial mail drop as the applicant's business address, or a cellular telephone number as the business' sole telephone number, without further inquiry to verify the authenticity of the applicant's business;

e. ChoicePoint approved, without further inquiry, the applications of subscribers notwithstanding the fact that the applicant left critical information, such as business license number, contact information, or applicant's last name, blank on the application;

f. ChoicePoint accepted applications transmitted by facsimile from public commercial locations, and accepted multiple applications for putatively separate businesses from the same facsimile numbers, without further inquiry to verify the authenticity of the applicant's business; and

g. ChoicePoint accepted and approved, without further inquiry, the applications of subscribers notwithstanding the fact that ChoicePoint's own internal reports on the applicant linked him or her to possible fraud associated with the Social Security number of another individual.

14. ChoicePoint also failed to monitor or otherwise identify unauthorized activity by subscribers, even after receiving subpoenas from law enforcement authorities between 2001 and 2005 alerting it to fraudulent accounts, and even when its own experiences with the subscriber should have raised doubts about the legitimacy of the subscriber's business. Examples of these failures include, but are not limited to, the following:

a. Furnishing to a purported apartment leasing subscriber a large number of consumer reports, over a relatively short period of time, that substantially exceeded the total number of rental units stated in the subscriber's application, without verifying that the applicant had a permissible purpose to obtain the reports;

b. Continuing to furnish consumer reports to a subscriber when the subscriber's telephone had been disconnected, the business address of the subscriber was found to be incorrect, the credit card number provided by the subscriber for payment to

ChoicePoint was in the name of an individual not associated with the subscriber's ChoicePoint account, the subscriber made multiple changes of address and/or telephone numbers over a short period of time, and the subscriber made payments to ChoicePoint solely by commercial money orders drawn on multiple issuers;

c. Continuing to furnish consumer reports to a subscriber when the subscriber's ChoicePoint account was repeatedly suspended for nonpayment; and

d. Continuing to furnish consumer reports to a subscriber when the documents submitted by that subscriber in the ChoicePoint application process were identified by ChoicePoint personnel as suspicious.

## **VIOLATIONS OF THE FCRA**

### **COUNT I**

15. Section 604 of the FCRA, 15 U.S.C. § 1681b, prohibits a consumer reporting agency from furnishing a consumer report except for specified "permissible purposes."

16. In numerous instances, ChoicePoint has furnished consumer reports to subscribers that did not have a permissible purpose to obtain a consumer report.

17. By and through the acts and practices described in Paragraph 16, ChoicePoint has violated Section 604(a) of the FCRA, 15 U.S.C. § 1681b(a).

### **COUNT II**

18. Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a), requires a consumer reporting agency to maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under Section 604 of the FCRA, including making reasonable efforts to verify the identity of each new prospective user of consumer report information and the uses certified by each prospective user prior to furnishing such user a consumer report.

19. In numerous instances, ChoicePoint has failed to maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under Section 604 of the FCRA, has failed to make reasonable efforts to verify the identity of prospective new users of consumer report information, and has failed to make reasonable efforts to verify the uses certified by each prospective user prior to furnishing such user a consumer report. For example, ChoicePoint has failed to examine or audit its subscribers to ensure that they were in fact using consumer report information for permissible purposes. In addition, ChoicePoint has failed to implement reasonable procedures, such as site visits, audits, or other verification, for users who typically have both permissible and impermissible purposes for using consumer reports (such as attorneys, insurance companies, private investigators, detective agencies, and protective service firms) to ensure that such users were using consumer report information for permissible purposes only.

20. Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a), prohibits a consumer reporting agency from furnishing a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a permissible purpose.

21. In numerous instances, ChoicePoint has furnished consumer reports to subscribers under circumstances in which ChoicePoint had reasonable grounds for believing that the reports would not be used for a permissible purpose.

22. By and through the acts and practices described in Paragraphs 16, 19, and 21, ChoicePoint has violated Section 607(a) of the FCRA, 15 U.S.C. § 1681e(a).

23. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the alleged violations of the FCRA constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).



24. The acts and practices described in Paragraphs 16, 19, and 21 constitute a pattern or practice of knowing violations, as set forth in Section 621(a)(2)(A) of the FCRA, 15 U.S.C. § 1681s(a)(2)(A).

### **DEFENDANT'S VIOLATIONS OF SECTION 5 OF THE FTC ACT**

#### **COUNT III**

25. As described in Paragraphs 12 through 14, ChoicePoint has not employed reasonable and appropriate measures to secure the personal information it collects for sale to its subscribers, including reasonable policies and procedures to: (1) verify or authenticate the identities and qualifications of prospective subscribers; or (2) monitor or otherwise identify unauthorized subscriber activity.

26. ChoicePoint's failure to employ reasonable and appropriate security measures to protect consumers' personal information has caused or is likely to cause substantial injury to consumers that is not offset by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. This practice was, and is, an unfair act or practice in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

#### **COUNT IV**

27. Since at least 1999, ChoicePoint has adopted various privacy principles, including but not limited to Exhibit A, which it has disseminated or caused to be disseminated on its websites at [www.choicepoint.com](http://www.choicepoint.com) and [www.choicepoint.net](http://www.choicepoint.net), incorporated in its contracts with subscribers, and discussed in its Annual Reports filed with the Securities and Exchange Commission and distributed to shareholders and the public. These privacy principles contain the

following statement regarding the confidentiality and security of personal information collected, maintained, or furnished by ChoicePoint:

ChoicePoint uses administrative, technical, personnel, and physical safeguards to protect the confidentiality and security of personally identifiable consumer information in our possession. These safeguards are designed to ensure a level of security appropriate to the nature of the data being processed and the risks of confidentiality violations involved.

28. ChoicePoint maintains a website, [www.choicetrust.com](http://www.choicetrust.com), which contains information directed at consumers. Through this website, ChoicePoint has disseminated or caused to be disseminated various notices about the FCRA, including but not necessarily limited to Exhibit B, containing the following statements:

Because ChoicePoint's ChoiceTrust understands its responsibility to treat consumers fairly and to protect their privacy, we have developed Fair Information Practices. These practices are derived from the Federal Fair Credit Reporting Act, but go beyond the requirements of that law . . . ChoicePoint operated under its own Fair Information Practices even before passage of this Act, and continues to offer greater protection to the consumer than is required by the FCRA.

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ChoicePoint allows access to your consumer reports only by those authorized under the FCRA. In addition, each ChoicePoint customer must verify that he/she has a 'permissible purpose' before receiving a consumer report.

29. ChoicePoint has disseminated or has caused to be disseminated a letter and Frequently Asked Questions (FAQ) to consumers who request a copy of their ChoicePoint public records file, including but not limited to Exhibit C, containing the following statement:

Every ChoicePoint customer must successfully complete a rigorous credentialing process. ChoicePoint does not distribute information

to the general public and monitors the use of its public record information to ensure appropriate use.

30. Through the means described in Paragraphs 27 through 29, Defendant has represented, expressly or by implication, that ChoicePoint has implemented reasonable and appropriate measures under the circumstances to maintain and protect the confidentiality and security of consumers' personal information, including a rigorous credentialing process for subscribers to prevent persons without a lawful purpose from obtaining access to consumers' personal information; and procedures to monitor subscribers' use of its public record information to ensure appropriate use.

31. In truth and in fact, ChoicePoint has not implemented reasonable and appropriate measures under the circumstances to maintain and protect the confidentiality and security of consumers' personal information, including a rigorous credentialing process for subscribers to prevent persons without a lawful purpose from obtaining access to consumers' personal information; or procedures to monitor subscribers' use of its public record information to ensure appropriate use. Therefore, the representations set forth in Paragraphs 27 through 29 were, and are, false or misleading in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

32. The acts and practices of ChoicePoint as alleged in Paragraphs 27 through 30 of this Complaint constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

#### **THIS COURT'S POWER TO GRANT RELIEF**

33. Each instance in which ChoicePoint has failed to comply with Sections 604 or 607 of the FCRA, 15 U.S.C. §§ 1681b, 1681e, constitutes a separate violation of the FCRA for the purpose of assessing monetary civil penalties.

34. Plaintiff seeks monetary civil penalties for every separate violation of the FCRA, which occurred each time ChoicePoint: (1) furnished a consumer report to a person who did not have a permissible purpose to obtain such a report; (2) furnished a consumer report under circumstances where ChoicePoint failed to make a reasonable effort to verify the identity of the prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report; and (3) furnished a consumer report to any person when it had reasonable grounds for believing that the consumer report would not be used for a permissible purpose under the FCRA.

35. Section 621(a)(2)(A) of the FCRA, 15 U.S.C. § 1681s(a)(2)(A), authorizes the Court to award monetary civil penalties of not more than \$2,500 per violation.

36. Under Sections 5(m)(1)(A), and 13(b) of the FTC Act, 15 U.S.C. §§ 45(m)(1)(A), and 53(b), this Court is authorized to issue injunctive and such other and further equitable and ancillary relief as it may deem appropriate in the enforcement of the FCRA and the FTC Act, including consumer redress and disgorgement, to prevent and remedy any violations of any provision of law enforced by the Commission.

#### **PRAYER FOR INJUNCTIVE AND MONETARY RELIEF**

WHEREFORE, Plaintiff requests that this Court, pursuant to 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), 1681s, and 1691c, and pursuant to the Court's own equitable powers:

- (1) Enter judgment against Defendant and in favor of Plaintiff for each violation alleged in this Complaint;
- (2) Permanently enjoin Defendant from violating the FCRA and the FTC Act, as alleged herein;

- (3) Award Plaintiff monetary civil penalties from Defendant for each violation of the FCRA alleged in this Complaint;
- (4) Award all equitable relief that the Court finds necessary to redress injury to consumers resulting from Defendant's violations of the FCRA and the FTC Act, including, but not limited to, restitution, disgorgement, and other forms of redress;
- (5) Order Defendant to pay the costs of bringing this action; and
- (6) Award Plaintiff such additional equitable relief as the Court may deem just and proper.

Dated: \_\_\_\_\_, 2006

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